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March 25, 2009

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street SW, Suite TW-A325
Washington, DC 20554

Dear Ms. Dortch:

Attached you will find comments from the Commonwealth of Pennsylvania in the matter of Rural Broadband Strategy, GN Docket No. 09-29.

If you have any questions or require additional information, please contact me at (717) 787-9945.

Thank you.

Sincerely,



Naomi Wyatt
Secretary of Administration

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
) GN Docket No. 09-29
Rural Broadband Strategy)

COMMENTS OF THE COMMONWEALTH OF PENNSYLVANIA

Introduction & Background

The Commonwealth of Pennsylvania (“Commonwealth” or “Pennsylvania”) appreciates the opportunity to provide comments to the Federal Communications Commission (“Commission”) related to the development of a comprehensive national rural broadband strategy. We share the Commission’s sense of urgency and sense of criticality in terms of ensuring “access to advanced telecommunications and information services [to all citizens], with a special focus on rural and hard-to-serve areas”.

We applaud the federal government and Congress for assigning the vital fiscal resources (American Recovery & Reinvestment Act of 2009) and the necessary planning, priority and attention (national broadband plan) to ensure that all Americans, regardless of where they live, can participate in the benefits of the digital information age. In that regard, the Commonwealth expects to be an effective leader of change in this important endeavor.

Our chief preoccupation will be the provision of broadband services to unserved and underserved communities. We must, first and foremost, resolve the basic digital divide problem before tackling next generation networks or expansion of existing networks. To do otherwise would lead to the creation of additional digital divides on multiple levels.

Status of Broadband Deployment in Pennsylvania

Pennsylvania has already taken great strides to confront the digital divide in our Commonwealth. In late 2004, Governor Edward G. Rendell signed into law landmark telecommunications legislation amending the existing state Public Utility Code to substantially

increase the level of investment in telecommunications infrastructure within the Commonwealth. This enabled the acceleration of deployment of broadband services in Pennsylvania by:

- Establishing a broadband facilities and services deployment timetable for incumbent local exchange carriers (“ILECs”) monitored and enforced by the Pennsylvania Public Utility Commission (“Pa. PUC”);
- Providing financial assistance to school districts to support the goal of ensuring that every school in the Commonwealth has access to broadband and high-speed Internet service;
- Establishing an outreach and aggregation funding mechanism to ensure that essential tasks that are a condition precedent to successful broadband deployment can be achieved by local stakeholders and community champions;
- Establishing the creation of a statewide inventory and mapping of availability of telecommunications services, regardless of technology used;
- Recognizing the importance of telecommunications infrastructure to economic development by creating a mechanism for the state economic development agency to accelerate broadband deployment; and
- Establishing a special program to help communities aggregate the demand for broadband services and requiring providers to respond to the demand for service in a more timely fashion. In fact, to our knowledge, this program is the only one in the country which creates a statutorily imposed “business case” for providers to deploy broadband services upon achieving an agreed-upon deployment threshold of committed customers. Already some 200 communities in Pennsylvania now have achieved connectivity as a result of this accelerated mechanism, and another 200 communities are now officially on the statutorily mandated accelerated broadband deployment schedule.

Despite our meaningful and measurable advancements over the past five years, we realize that much work lies ahead.

Broadband Deployment Guiding Principles

To optimize the opportunity that presents itself through the national rural strategy and the availability of federal stimulus resources for investment in broadband infrastructure, the Commonwealth developed the following guiding principles:

1. Providing broadband service to those who are not served in Pennsylvania (“unserved”).

2. Providing enhanced broadband connectivity to those currently underserved (“underserved”).
3. Providing affordable and adequate (voice, data, video and mobile) services to citizens (“affordability”).
4. Remaining technology neutral in mode of delivery to end users (“agnostic provisioning”).
5. To the extent possible, encourage broadband connectivity via multiple providers (“competition and choice”).
6. Encouraging local and public-private partnerships to maximize impact of investment and to extend reach and breadth of deployment effort (“fostering partnerships”).
7. Providing funds to broadband recipients as opposed to providers (preference for “community champions” or “local project lead”).
8. Using Commonwealth resources where possible to assist primary goals 1, 2 and 3 (“resource allocation”).
9. Supporting secondary, expansive, substantive (public safety, education, health, energy, commercial grade broadband) goals where possible (“vertical integration”).
10. Identifying policy and programmatic changes in state programs that could help accelerate deployment or encourage outside private or federal investment (“policy & programmatic considerations”).

We encourage the Commission and Congress to consider the above principles as essential components of the national rural deployment strategy.

National Strategy Recommendations

In terms of specific recommendations sought under the Commission’s docket, we submit the following issues and considerations. We hope that the Commission finds these concepts useful as it undertakes its deliberations leading to the release of a national rural broadband strategy:

1. The current FCC definition of ‘broadband’ for downstream speeds of 768 kilobits per second (kbps) is insufficient. More ambitious speed goals, upward and downward, must be established. And the determination of mandated minimal connectivity speeds should be determined quickly to meet the stimulus funds that soon will be mobilized. It should be noted that Pennsylvania’s Chapter 30 of the Public Utility Code specifies a broadband deployment standard of “equal to or greater than 1.544 megabits per second (Mbps) in

the downstream direction and equal to or greater than” 128 kbps “in the upstream direction.” 66 Pa. C.S. § 3012. At least one major ILEC operating in Pennsylvania is under its individual Chapter 30 regulatory network modernization plan obligation to provide greater downstream broadband speeds in the range of 44 Mbps.

2. Accurate broadband mapping is an essential component of the national strategy because it presents the best diagnostic evidence of the existence and precise location of the digital divide. It is essential that requirements related to data collection and mapping be explicit, particularly in relation to the following criteria: the obligation to participate and contribute must apply to all service providers; the granularity of information to be collected and compiled must be defined in specific not vague terms; since this is a “living document” mapping update requirements should be clearly spelled out so that the picture evolves; and enforcement mechanisms are essential to ensure compliance. Consistency will be essential in terms of the collection of mapping data and of the display and maintenance of broadband mapping across the country. The Commission must also deal with the reconciliation of broadband mapping efforts that are currently underway in many states, including Pennsylvania, and how such efforts “roll up” into a national effort. Furthermore, there must be consistent principles governing the access to relevant mapping data by federal, state and local governmental agencies in view of proprietary and security concerns that govern sensitive information.
3. State entities are uniquely positioned to apply for federal broadband stimulus funds and to lead projects for a variety of reasons, including: knowledge of local conditions, relationships with potential project partners, familiarity with state or local resources, ability to identify or leverage matching funds or to stimulate private or local investment, and so forth.
4. When considering applications for federal broadband stimulus funding, it is essential that any required match should accommodate in-kind rather than cash contributions, and include a process that allows state entities to apply for waivers. For example, Pennsylvania ratepayers have been financing through periodic annual automatic revenue and rate increases the broadband deployment by regulated Chapter 30 ILECs that operate within the Commonwealth. These amounts can and should be considered as matching basis for the available federal funds that are made available to the various states for broadband deployment under the federal American Recovery and Reinvestment Act of 2009.
5. Consider the development of a sample request for proposals (RFP) that constituents and communities can use to address issues such as aggregation, pricing, service levels, provider selection, and like considerations. This would be particularly helpful to those rural communications that lack sufficient resources or subject-matter experts.
6. Where possible, facilities owned by the federal government could be leased to wireless providers as base locations for their antennae in rural America in order to facilitate the extension of wireless broadband service to sparsely populated areas.

7. Federal agencies should identify opportunities related to use and value of rights-of-ways over federal properties.
8. Creation of a national and state connectedness index which collects information related to availability, price, reach, and so forth, with publication on annual basis so that incremental improvement can be measured on national and state levels. Benchmarking our progress will be important.
9. Provide federal financial incentives to maintain broadband networks built as a result of the stimulus program.

Regulatory Considerations

The Commission must also coordinate the contemplated federal rural broadband deployment initiatives with its own resolution of major pending proceedings relating to the reform of the federal universal service fund (“USF”) mechanism and the interstate intercarrier compensation mechanism. As the Pa. PUC has pointed out in numerous pleadings before the Commission in various related proceedings, Pennsylvania has a unique position when it comes to the debate on broadband deployment in rural areas. Not only Pennsylvania has its own Chapter 30 broadband deployment initiative that has been and continues to be largely financed by end-user consumers, Pennsylvania is also a net contributor to the federal USF at the level of \$125-\$135 million annually. Furthermore, Pennsylvania has implemented extensive intrastate carrier access charge reforms at a corresponding high cost to its own ratepayers and operates its own State-specific USF.¹ Thus, as a net contributor state to the federal USF, Pennsylvania already supports the deployment of broadband facilities and networks in other states.

Pennsylvania’s unique position and broadband deployment initiatives, however, should not and cannot be held against the Commonwealth in terms of what still needs to be accomplished under the federal American Recovery and Reinvestment Act of 2009. Instead, the related federal economic stimulus initiatives should be properly prioritized so that Pennsylvania can accelerate its broadband deployment, especially in unserved and underserved rural areas. It should be pointed out that a number of rural exchange areas in Pennsylvania are served by the Verizon Pennsylvania and Verizon North ILECs. The Verizon ILECs have a Chapter 30

¹ See generally *In re Developing a Unified Intercarrier Compensation Regime, et al.*, CC Docket No. 01-92 *et al.*, Comments of the Pennsylvania Public Utility Commission submitted on November 26, 2008, Reply Comments submitted on December 22, 2008.

broadband deployment horizon that extends to 2015. Similarly, many rural exchange areas are served by the Embarq PA (former United Telephone Company of Pennsylvania) and Windstream PA (former ALLTEL PA). These two independent ILECs have a Chapter 30 broadband deployment commitment horizon that extends to 2013.

Inter-Agency Recommendations

The Commission is also seeking input related to interagency recommendations. Please accept the following recommendations:

1. Creation of an interagency broadband task force comprised of FCC, Commerce/NTIA, USDA/RUS, GAO, HHS, Energy, Transportation, and law enforcement agencies to ensure coordination across agencies and optimization of stimulus resources.
2. Creation of a federally-funded projects database of infrastructure projects; this in turns alerts providers and project participants of an opportunity to take advantage of potential opportunities to deploy telecommunications infrastructure thereby lessening construction costs, one-time permitting, and future disruptions.
3. Amending federal funding applications and guidelines to elicit or encourage coordination among federal agencies and programs.
4. Publication of an inventory of programs that can help accelerate deployment or leverage additional resources, and issue recommendations, as appropriate.

We thank the Commission for the opportunity to respond to this Public Comment process, and further welcome the opportunity the meet with Federal Communications Commission officials to discuss the contents of this submission.

We also look forward to working with the Commission and the Departments of Commerce (NTIA) and Agriculture (RUS) to achieve the shared and mutual objective of ensuring accelerated rural deployment to all citizens.

Respectfully submitted,



Naomi Wyatt, Secretary of Administration
Commonwealth of Pennsylvania

SUBMITTED: March 25, 2009